

JOSEPH P. RUSSONIELLO, CSBN 44332

United States Attorney

JOANN M. SWANSON, CSBN 88143

Chief, Civil Division

EDWARD A. OLSEN, CSBN 214150

Assistant United States Attorney

1301 Clay Street Suite 340S

Oakland, California 94612

Telephone: (510) 637-3697

FAX: (510) 637-3724

Attorneys for Defendant

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

HONG YING YE,

Plaintiff,

v.

ERIC HOLDER, Attorney General
of the United States,

Defendant.

No. C 09-2073-MEJ

**JOINT CASE MANAGEMENT
STATEMENT AND ~~PROPOSED~~
ORDER**

The parties to the above-entitled action hereby submit this Joint Case Management Statement and Proposed Order:

1. Jurisdiction and Service

The plaintiff seeks review of the denial of his application for naturalization by the United States Citizenship and Immigration Services (USCIS). This Court has jurisdiction under 8 U.S.C. § 1421(c), which provides that a person whose application for naturalization has been denied may seek review of such denial in the United States District Court for the district in which such person resides. There are no service issues.

2. Relevant Facts

On March 28, 2002, the plaintiff was granted conditional legal permanent resident status as the wife of a United States citizen. On February 27, 2004, the plaintiff and her husband jointly filed

1 an I-751 Petition to Remove Conditions on Residence. The plaintiff's husband passed away on
2 July 9, 2004. On October 6, 2006, and on October 10, 2006, USCIS mailed an appointment letter
3 to the plaintiff and her attorney requesting that she and her husband appear for an interview on the
4 I-751 petition. The plaintiff and her husband did not appear for the interview.

5 On January 15, 2008, the plaintiff filed an application for naturalization with USCIS. The
6 plaintiff appeared for an interview on her naturalization application on May 29, 2008. On June 6,
7 2008, the USCIS denied the I-751 petition for failure to appear at the I-751 interview, and
8 terminated the plaintiff's conditional resident status. On August 25, 2008, USCIS denied the
9 plaintiff's application for naturalization on the ground that, since she was no longer a lawful
10 permanent resident, she was not eligible for naturalization. After a hearing, USCIS re-affirmed its
11 decision to deny the plaintiff's application for naturalization. In its re-affirmance, dated January
12 15, 2009, USCIS denied the naturalization application on the grounds that: (1) the plaintiff could
13 not establish that she resided continuously as a lawful permanent resident in the United States for
14 at least five years prior to filing her application for naturalization; (2) the plaintiff had failed to
15 notify USCIS that she was living at a different address than the one she had provided USCIS; (3)
16 even if the plaintiff had appeared at the interview on the I-751 petition, the petition would have
17 been denied since her husband had passed away; and (4) the plaintiff had failed to demonstrate
18 good moral character because she failed to disclose in her application and in her interview that she
19 had provided false testimony about her residence and her work history.

20 3. A Brief Description of Administrative Proceeding

21 The USCIS denied the plaintiff's naturalization application on August 25, 2008, and re-
22 affirmed that denial on January 15, 2009.

23 4. Legal Issues

24 Whether USCIS properly denied the plaintiff's naturalization application on the ground that
25 she did not meet the five-year continuous legal permanent residency requirement and the good
26 moral character requirement.

27 5. Motions

28 The parties intend to file a Certified Administrative Record and then file cross-motions for

summary judgment to resolve this case.

6. Amendment to the Pleadings

The plaintiff does not intend to amend his pleading.

7. Evidence Preservation

The parties are preserving all records and documents pertinent to this case.

8. Disclosures

The defendant will provide the plaintiff with a copy of the certified administrative record in this case.

9. Discovery

The parties have met and conferred and agree that they will not pursue any discovery.

10. Class Actions

Not applicable.

11. Related Cases

None known.

12. Relief Sought

The plaintiff seeks naturalization.

13. Settlement and ADR

The parties have been exempted from the Court's ADR program.

14. Consent to Magistrate Judge For All Purposes

The parties consented to the assignment of this case to a magistrate judge.

15. Other References

None at this time.

16. Narrowing of Issues

The parties would ask that the Court confine its review to the certified administrative record, which will be filed within one month.

17. Expedited Schedule

None suggested.

18. Scheduling

The parties believe this case can be resolved on cross-motions for summary judgment and propose the following schedule:

Defendants to file certified administrative record no later than: September 25, 2009

Plaintiff's Motion for Summary Judgment: October 16, 2009

Defendant's Opposition/Cross-Motion for Summary Judgment: October 30, 2009

Plaintiff's Reply/Opposition: November 13, 2009

Defendant's Reply: November 20, 2009

Hearing: December 10, 2009, at 10:00 a.m.

19. Trial

The parties do not anticipate the need for a trial.

20. Disclosure of Non-Party Interested Entities or Persons

Defendant believes it is exempt from this requirement because it is a federal governmental entity. Plaintiff is not aware of any.

21. Such Other Matters As May Facilitate Just, Speedy and Inexpensive Resolution

None.

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1 Dated: September 3, 2009

Respectfully submitted,

2 JOSEPH P. RUSSONIELLO
3 United States Attorney

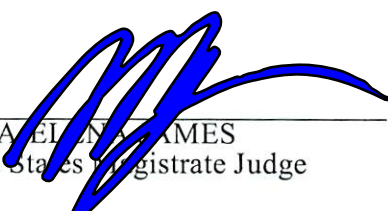
4 /s/
5 EDWARD A. OLSEN
6 Assistant United States Attorney
7 Attorneys for Defendant

8 Dated: September 3, 2009

9 /s/
10 HENRY HU
11 Attorney for Plaintiff

12 The Case Management Statement and Proposed Order is hereby adopted by the Court as the
13 Case Management Order for the case and the parties are ordered to comply with this Order.
14 The September 10, 2009 Case Management Conference is hereby VACATED.

15 Dated: September 3, 2009

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17 MARIA ELENA JAMES
18 United States Magistrate Judge